

**REMARKS:**

In the Office Action mailed October 3, 2007, the Examiner noted that claims 1-14 were pending, and rejected claims 1-14. Claims 11 and 13 have been cancelled without prejudice, and claims 1, 2, 5, 12 and 14 have been amended. Support for the amendments can be found at least at page 7, line 16 to page 8, line 7, at page 9, line 4 to page 10, line 4 and at page 13, line 1 to page 14, line 4 of the Specification as filed.

Thus, claims 1-10, 12 and 14 are pending under consideration. No new matter has been added. The Examiner's rejections are traversed below.

**REJECTION UNDER 35 U.S.C. § 101:**

Claim 11 was rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. As mentioned above, claim 11 has been cancelled.

In view of the foregoing, it is respectfully submitted that the rejection is overcome.

**REJECTION UNDER 35 U.S.C. § 102:**

Claims 1-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by Jackson (US Pub. No. 2002/0152305).

Claim 1 has been amended to recite, "the transaction occurrence amount indicates an offered load and the transition of the past transaction occurrence amount represents a variation of measurement values of the past transaction occurrence amount over a period of time" and "generating a function that expresses a correlation between measurement values of a past transaction processing amount and measurement values of a corresponding past use resource amount of the target module."

The invention of claim 1 recites that "data representing the transition of the past transaction occurrence amount is used as values of the past transaction processing amount in the function", where the transition of the past use resource amount indicates "a variation of the past use resource amount over a period of time", as recited in independent claim 1. Independent claims 2, 12 and 14 have been amended to recite similar features.

Independent claims 2, 12 and 14 are amended herein and recite similar features of independent claim 1.

It is respectfully submitted that the asserted citation does not teach at least the aforementioned features of independent claims 1, 2, 12 and 14.

Jackson at paragraph [0444] states:

"History repository 2300 may be implemented as a database or other suitable logical storage structure on any medium or by any device/s suitable for maintaining a retrievable log of information communicated from system management processing engine 1060."

Jackson at paragraph [0454], starting last line 1<sup>st</sup> column states:

"Furthermore, an optional task initiation module 1063 may be provided as shown in FIG. 17 to dynamically manage system resources, for example, by performing one or more tasks based on one or more data analyses performed based at least in part on resource utilization information from history repository 2300 as described elsewhere herein. Examples of tasks that may be implemented by module 1063 include, but are not limited to, re-allocation or re-distribution of workload among subsystems, etc."

Jackson at paragraph [0462] states:

In one example, a peak time period analysis algorithm may be capable of identifying time period/s (e.g., in units of hours) in which system workload and/or workload of a given processing engine/s is likely to be heaviest based on historical analysis of resource utilization information. ... In one exemplary implementation, resource utilization information obtained for any one day of the week, or obtained for any combination of the seven days in a week, may be selected for performance of such an analysis run.

Jackson at paragraph [0491] states:

"In this example, each subsystem I will provide (by pooling or other means) an overall system resource utilization level  $u_i$  (called a statistical sample) in each pooling window."

As can be seen from the above discussion, these portions of Jackson do not teach or suggest "a correlation between measurement values of a past transaction processing amount and measurement values of a corresponding past use resource amount of the target module" and "generating a transition of the past use resource amount from the transition of the transaction occurrence amount of the target module, the transition of the past use resource amount indicating a variation of the past use resource amount over a period of time", as recited in for example claim 1 (see also, claims 2, 12 and 14).

Instead, Jackson merely discusses performing one or more tasks, including re-allocation or re-distribution of workload among subsystems, based on one or more data analyses performed based at least in part on resource utilization information.

Accordingly, Jackson does not disclose every element of the Applicants' independent claims. In order for a reference to anticipate a claim, the reference must teach each and every element of the claim (MPEP §2131). Therefore, since Jackson does not disclose the features recited in independent claims, as stated above, it is respectfully submitted that the independent claims patentably distinguishes over Jackson, and withdrawal of the §102(b) rejection is earnestly and respectfully solicited.

Claims 3-10 depend from claim 2 therefore, claims 3-10 patentably distinguish over Jackson for the reasons discussed above with respect to claims 1, 2, 12 and 14.

In view of the foregoing, it is respectfully submitted that the rejection is overcome.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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